

From: Coggiola, Lesley M. [mailto:LCoggiola@sccourts.org]
Sent: Thursday, June 15, 2017 2:48 PM
To: Desa Ballard <desab@desaballard.com>
Subject: Re: Very confidential

Desa

WOW. I am so sorry I have not called today. Oral argument this morning. Many crisis calls all day and I am leaving at 3:00 to teach and then speak at a seminar at 5:00 and a meeting at 6:15.

But I am free in the morning to talk. So if you can carry on as you suggested till morning. I will call you first thing!!!

Lee

Sent from my iPhone

> On Jun 14, 2017, at 2:25 PM, Desa Ballard <desab@desaballard.com> wrote:
>
> Short version:
>
> Harvey and I represent a guy who is incarcerated at SCDC. We filed a petition for writ of habeas corpus on his behalf in circuit court. The case had significant merit on multiple grounds and we can win on the merits. After hearings on several preliminary matters during the first six months of this year, the case was heard on the merits last week. The judge did not rule.
>
> The judge summoned all counsel to a status conference yesterday. In chambers, the judge said an order releasing our guy from jail WILL BE GRANTED if our guy grants a full release to SCDC and the State (they are the named defendants) so our guy cannot sue them in the future. It was made clear that neither defendant would admit any wrongdoing and the order granting our guy release from custody would be the end of the matter. "No admission of liability, doubtful and disputed, all the normal stuff for a release." All counsel were given until June 30th to agree to the deal and communicate back to the judge.
>
> We spoke to our client yesterday by phone and he agreed to the deal. I emailed defense counsel late yesterday and told them our client agreed to the deal proposed by the judge. I am preparing the paperwork. I have not heard back from defense counsel. However, I am moving fast to get the paperwork done, signed by our client, and presented to the judge.
>
> This proposal by the judge is unethical. But I have to accept the deal for my client. I don't know that defense counsel will agree to it. But if they do not, this thing will get really ugly really fast.
>
> I am arranging for my guy to have counsel to challenge the release as having been coerced by the judge if the deal goes through and IF HE CHOOSES TO CHALLENGE THE RELEASE and sue for the illegal detention. I will take no action of any kind until my guy is released. I don't know if my guy had any plans to sue the State or SCDC, we never discussed it, but it was important to the judge that my guy NOT be permitted to sue after he is released.
>
> I need to have contemporaneous communication to you at each step so it is clear that I am doing this because the improper proposal was made and I know there will be matters in your office after the deal

is done. I cannot officially report anything to you until my guy is safely home. He has been at SCDC for more than 20 years.

>

> Please call me tomorrow.

>

> db